

AMENDED IN ASSEMBLY APRIL 21, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2581**

**Introduced by Assembly Member Bradford**

February 21, 2014

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An act to amend ~~Section~~ *Sections 25402 and 25402.1* of the Public Resources Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2581, as amended, Bradford. Energy: *appliance standards*: public domain computer program.

*(1) Existing law requires the State Energy Resources Conservation and Development Commission to prescribe, by regulation, standards for minimum levels of operating efficiency, and authorizes the commission to prescribe other cost-effective measures, to promote the use of energy and water-efficient appliances whose use requires a significant amount of energy or water on a statewide basis.*

*This bill would instead authorize the commission to prescribe or adopt other cost-effective measures, including voluntary agreements. The bill would authorize the commission to repeal a standard of minimum levels operating efficiency for an appliance if it finds that the standard is duplicative or inconsistent with federal or state law. The bill would require the commission to rely on the most current data possible and, whenever feasible, to rely on data no older than one year prior to the commencement of a rulemaking proceeding to consider adoption or amendment of a standard for an appliance.*

~~Existing~~

*(2) Existing law requires the ~~California Energy Commission~~ commission to prescribe, by regulation, lighting, insulation climate*

control system, and other building design and construction standards that increase the efficiency in the use of energy and water for new residential and new nonresidential buildings. Existing law also requires the commission to prescribe, by regulation, energy and water conservation design standards for new residential and new nonresidential buildings. In order to implement these requirements, existing law requires the commission to develop a public domain computer program that enables contractors, builders, architects, engineers, and government officials to estimate energy consumed by residential and nonresidential buildings and requires the commission to establish a formal process for certification of compliance options for new products, materials, and calculation methods, as prescribed.

This bill would require the commission to ~~ensure that approve and make publicly available, not less than 6 months prior to the effective date of adopted or updated efficiency standards, the public domain computer program and the compliance options produce an estimate of energy consumption for residential and nonresidential buildings that has an accuracy within 5% of actual energy consumption for residential and nonresidential buildings.~~ *program. The bill would require the commission, before approving the public domain computer program, to perform preliminary tests of the public domain computer program using common examples of residential and nonresidential buildings and building systems to ensure the usability of the program by architects, builders, contractors, and local code enforcement personnel. The bill would require the commission to make the results of those preliminary tests publicly available.*

*For existing single-family residential dwellings and multifamily residential dwellings with up to 4 units, the bill would require the commission to ensure that energy assessment tools used by the commission are routinely adjusted to improve modeling accuracy and to ensure that consumers receive a notice with the output of the energy assessment tools explaining the assumptions used in the energy assessment tools and how they may differ from actual usage patterns.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 25402 of the Public Resources Code is  
2     amended to read:

1     25402. The commission shall, after one or more public  
2 hearings, do all of the following, in order to reduce the wasteful,  
3 uneconomic, inefficient, or unnecessary consumption of energy,  
4 including the energy associated with the use of water:

5     (a) (1) Prescribe, by regulation, lighting, insulation climate  
6 control system, and other building design and construction  
7 standards that increase the efficiency in the use of energy and water  
8 for new residential and new nonresidential buildings. The  
9 commission shall periodically update the standards and adopt any  
10 revision that, in its judgment, it deems necessary. Six months after  
11 the commission certifies an energy conservation manual pursuant  
12 to subdivision (c) of Section 25402.1, ~~no~~ a city, county, city and  
13 county, or state agency shall *not* issue a permit for ~~any~~ a building  
14 unless the building satisfies the standards prescribed by the  
15 commission pursuant to this subdivision or subdivision (b) that  
16 are in effect on the date an application for a building permit is  
17 filed. Water efficiency standards adopted pursuant to this  
18 subdivision shall be demonstrated by the commission to be  
19 necessary to save energy.

20     (2) Prior to adopting a water efficiency standard for residential  
21 buildings, the Department of Housing and Community  
22 Development and the commission shall issue a joint finding  
23 whether the standard (A) is equivalent or superior in performance,  
24 safety, and for the protection of life, health, and general welfare  
25 to standards in Title 24 of the California Code of Regulations and  
26 (B) does not unreasonably or unnecessarily impact the ability of  
27 Californians to purchase or rent affordable housing, as determined  
28 by taking account of the overall benefit derived from water  
29 efficiency standards. ~~Nothing in this~~ *This subdivision in does not*  
30 *in any way reduces reduce* the authority of the Department of  
31 Housing and Community Development to adopt standards and  
32 regulations pursuant to Part 1.5 (commencing with Section 17910)  
33 of Division 13 of the Health and Safety Code.

34     (3) Water efficiency standards and water conservation design  
35 standards adopted pursuant to this subdivision and subdivision (b)  
36 shall be consistent with the legislative findings of this division to  
37 ensure and maintain a reliable supply of electrical energy and be  
38 equivalent to or superior to the performance, safety, and protection  
39 of life, health, and general welfare standards contained in Title 24  
40 of the California Code of Regulations. The commission shall

1 consult with the members of the coordinating council as established  
2 in Section 18926 of the Health and Safety Code in the development  
3 of these standards.

4 (b) (1) Prescribe, by regulation, energy and water conservation  
5 design standards for new residential and new nonresidential  
6 buildings. The standards shall be performance standards and shall  
7 be promulgated in terms of energy consumption per gross square  
8 foot of floorspace, but may also include devices, systems, and  
9 techniques required to conserve energy and water. The commission  
10 shall periodically review the standards and adopt any revision that,  
11 in its judgment, it deems necessary. A building that satisfies the  
12 standards prescribed pursuant to this subdivision need not comply  
13 with the standards prescribed pursuant to subdivision (a). Water  
14 conservation design standards adopted pursuant to this subdivision  
15 shall be demonstrated by the commission to be necessary to save  
16 energy. Prior to adopting a water conservation design standard for  
17 residential buildings, the Department of Housing and Community  
18 Development and the commission shall issue a joint finding  
19 whether the standard (A) is equivalent or superior in performance,  
20 safety, and for the protection of life, health, and general welfare  
21 to standards in the California Building Standards Code and (B)  
22 does not unreasonably or unnecessarily impact the ability of  
23 Californians to purchase or rent affordable housing, as determined  
24 by taking account of the overall benefit derived from the water  
25 conservation design standards. Nothing in this subdivision in any  
26 way reduces the authority of the Department of Housing and  
27 Community Development to adopt standards and regulations  
28 pursuant to Part 1.5 (commencing with Section 17910) of Division  
29 13 of the Health and Safety Code.

30 (2) In order to increase public participation and improve the  
31 efficacy of the standards adopted pursuant to subdivisions (a) and  
32 (b), the commission shall, prior to publication of the notice of  
33 proposed action required by Section 18935 of the Health and Safety  
34 Code, involve parties who would be subject to the proposed  
35 regulations in public meetings regarding the proposed regulations.  
36 All potential affected parties shall be provided advance notice of  
37 these meetings and given an opportunity to provide written or oral  
38 comments. During these public meetings, the commission shall  
39 receive and take into consideration input from all parties  
40 concerning the parties' design recommendations, cost

1 considerations, and other factors that would affect consumers and  
2 California businesses of the proposed standard. The commission  
3 shall take into consideration prior to the start of the notice of  
4 proposed action any input provided during these public meetings.

5 (3) The standards adopted or revised pursuant to subdivisions  
6 (a) and (b) shall be cost-effective when taken in their entirety and  
7 when amortized over the economic life of the structure compared  
8 with historic practice. When determining cost-effectiveness, the  
9 commission shall consider the value of the water or energy saved,  
10 impact on product efficacy for the consumer, and the life cycle  
11 cost of complying with the standard. The commission shall consider  
12 other relevant factors, as required by Sections 18930 and 18935  
13 of the Health and Safety Code, including, but not limited to, the  
14 impact on housing costs, the total statewide costs and benefits of  
15 the standard over its lifetime, economic impact on California  
16 businesses, and alternative approaches and their associated costs.

17 (c) (1) (A) Prescribe, by regulation, standards for minimum  
18 levels of operating efficiency, based on a reasonable use pattern,  
19 and may prescribe *or adopt* other cost-effective measures, including  
20 incentive programs, fleet averaging, energy and water consumption  
21 labeling not preempted by federal labeling law, ~~and~~ consumer  
22 education programs, *and voluntary agreements* to promote the use  
23 of energy and water efficient appliances whose use, as determined  
24 by the commission, requires a significant amount of energy or  
25 water on a statewide basis. The minimum levels of operating  
26 efficiency shall be based on feasible and attainable efficiencies or  
27 feasible improved efficiencies that will reduce the energy or water  
28 consumption growth rates. The standards shall become effective  
29 no sooner than one year after the date of adoption or revision. ~~No~~  
30 A new appliance manufactured on or after the effective date of the  
31 standards ~~may~~ *shall not* be sold or offered for sale in the state,  
32 unless it is certified by the manufacturer thereof to be in  
33 compliance with the standards. The standards shall be drawn so  
34 that they do not result in any added total costs for consumers over  
35 the designed life of the appliances concerned.

36 ~~In~~

37 (B) *In* order to increase public participation and improve the  
38 efficacy of the standards adopted pursuant to this subdivision, the  
39 commission shall, prior to publication of the notice of proposed  
40 action required by Section 18935 of the Health and Safety Code,

1 involve parties who would be subject to the proposed regulations  
2 in public meetings regarding the proposed regulations. All potential  
3 affected parties shall be provided advance notice of these meetings  
4 and given an opportunity to provide written or oral comments.  
5 During these public meetings, the commission shall receive and  
6 take into consideration input from all parties concerning the parties'  
7 design recommendations, cost considerations, and other factors  
8 that would affect consumers and California businesses of the  
9 proposed standard. The commission shall take into consideration  
10 prior to the start of the notice of proposed action any input provided  
11 during these public meetings.

12 ~~The~~  
13 (C) *The* standards adopted or revised pursuant to this subdivision  
14 shall not result in any added total costs for consumers over the  
15 designed life of the appliances concerned. When determining  
16 cost-effectiveness, the commission shall consider the value of the  
17 water or energy saved, impact on product efficacy for the  
18 consumer, and the life cycle cost to the consumer of complying  
19 with the standard. The commission shall consider other relevant  
20 factors, as required by Sections 11346.5 and 11357 of the  
21 Government Code, including, but not limited to, the impact on  
22 housing costs, the total statewide costs and benefits of the standard  
23 over its lifetime, economic impact on California businesses, and  
24 alternative approaches and their associated costs.

25 (2) ~~No~~—A new appliance, except for any plumbing fitting,  
26 regulated under paragraph (1), that is manufactured on or after  
27 July 1, 1984, ~~may~~ *shall not* be sold, or offered for sale, in the state,  
28 unless the date of the manufacture is permanently displayed in an  
29 accessible place on that appliance.

30 (3) During the period of five years after the commission has  
31 adopted a standard for a particular appliance under paragraph (1),  
32 ~~no~~ *an* increase or decrease in the minimum level of operating  
33 efficiency required by the standard for that appliance shall *not*  
34 become effective, unless the commission adopts other cost-effective  
35 measures for that appliance.

36 (4) Neither the commission nor any other state agency shall  
37 take any action to decrease any standard adopted under this  
38 subdivision on or before June 30, 1985, prescribing minimum  
39 levels of operating efficiency or other energy conservation  
40 measures for any appliance, unless the commission finds by a

1 four-fifths vote that a decrease is of benefit to ratepayers, and that  
2 there is significant evidence of changed circumstances. Before  
3 January 1, 1986, the commission shall not take any action to  
4 increase a standard prescribing minimum levels of operating  
5 efficiency for any appliance or adopt a new standard under  
6 paragraph (1). Before January 1, 1986, any appliance manufacturer  
7 doing business in this state shall provide directly, or through an  
8 appropriate trade or industry association, information, as specified  
9 by the commission after consultation with manufacturers doing  
10 business in the state and appropriate trade or industry associations  
11 on sales of appliances so that the commission may study the effects  
12 of regulations on those sales. These informational requirements  
13 shall remain in effect until the information is received. The trade  
14 or industry association may submit sales information in an  
15 aggregated form in a manner that allows the commission to carry  
16 out the purposes of the study. The commission shall treat any sales  
17 information of an individual manufacturer as confidential and that  
18 information shall not be a public record. The commission shall not  
19 request any information that cannot be reasonably produced in the  
20 exercise of due diligence by the manufacturer. At least one year  
21 prior to the adoption or amendment of a standard for an appliance,  
22 the commission shall notify the Legislature of its intent, and the  
23 justification to adopt or amend a standard for the appliance. *The*  
24 *commission shall rely on the most current data available and,*  
25 *whenever feasible, shall rely on data no older than one year prior*  
26 *to the commencement of a rulemaking proceeding to consider*  
27 *adoption or amendment of a standard for an appliance pursuant*  
28 *to this subdivision.* Notwithstanding paragraph (3) and this  
29 paragraph, the commission may do any of the following:

30 (A) Increase the minimum level of operating efficiency in an  
31 existing standard up to the level of the National Voluntary  
32 Consensus Standards 90, adopted by the American Society of  
33 Heating, Refrigeration, and Air Conditioning Engineers or, for  
34 appliances not covered by that standard, up to the level established  
35 in a similar nationwide consensus standard.

36 (B) Change the measure or rating of efficiency of any standard,  
37 if the minimum level of operating efficiency remains substantially  
38 the same.

39 (C) Adjust the minimum level of operating efficiency in an  
40 existing standard in order to reflect changes in test procedures that

1 the standards require manufacturers to use in certifying compliance,  
2 if the minimum level of operating efficiency remains substantially  
3 the same.

4 (D) Readopt a standard preempted, enjoined, or otherwise found  
5 legally defective by an administrative agency or a lower court, if  
6 final legal action determines that the standard is valid and if the  
7 standard that is readopted is not more stringent than the standard  
8 that was found to be defective or preempted.

9 (E) *Repeal a standard for a particular appliance adopted under*  
10 *paragraph (1) if it finds that the standard is duplicative or*  
11 *inconsistent with federal or state law.*

12 ~~(E)~~

13 (F) Adopt or amend any existing or new standard at any level  
14 of operating efficiency, if the Governor has declared an energy  
15 emergency as described in Section 8558 of the Government Code.

16 (5) Notwithstanding paragraph (4), the commission may adopt  
17 standards pursuant to Commission Order No. 84-0111-1, on or  
18 before June 30, 1985.

19 (d) (1) Recommend minimum standards of efficiency for the  
20 operation of ~~any~~ a new facility at a particular site that are  
21 technically and economically feasible. ~~No~~ A site and related facility  
22 shall *not* be certified pursuant to Chapter 6 (commencing with  
23 Section 25500), unless the applicant certifies that standards  
24 recommended by the commission have been considered, which  
25 certification shall include a statement specifying the extent to  
26 which conformance with the recommended standards will be  
27 achieved.

28 ~~Whenever~~

29 (2) *Whenever* this section and Chapter 11.5 (commencing with  
30 Section 19878) of Part 3 of Division 13 of the Health and Safety  
31 Code are in conflict, the commission shall be governed by that  
32 chapter of the Health and Safety Code to the extent of the conflict.

33 (e) The commission shall do all of the following:

34 (1) Not later than January 1, 2004, amend any regulations in  
35 effect on January 1, 2003, pertaining to the energy efficiency  
36 standards for residential clothes washers to require that residential  
37 clothes washers manufactured on or after January 1, 2007, be at  
38 least as water efficient as commercial clothes washers.

39 (2) Not later than April 1, 2004, petition the federal Department  
40 of Energy for an exemption from any relevant federal regulations



governing energy efficiency standards that are applicable to residential clothes washers.

(3) Not later than January 1, 2005, report to the Legislature on its progress with respect to the requirements of paragraphs (1) and (2).

**SECTION 1.**

SEC. 2. Section 25402.1 of the Public Resources Code is amended to read:

25402.1. ~~(a)~~ In order to implement the requirements of subdivisions (a) and (b) of Section 25402, ~~the commission shall do~~ all of the following *shall apply*:

~~(1) Develop~~

*(a) The commission shall develop* a public domain computer program that will enable contractors, builders, architects, engineers, and government officials to estimate the energy consumed by residential and nonresidential buildings. The commission may charge a fee for the use of the program, which shall be based upon the actual cost of the program, including any computer costs.

~~(2) Establish~~

*(b) The commission shall establish* a formal process for certification of compliance options for new products, materials, and calculation methods that provides for adequate technical and public review to ensure accurate, equitable, and timely evaluation of certification applications. Proponents filing applications for new products, materials, and calculation methods shall provide all information needed to evaluate the application that is required by the commission. The commission shall publish annually the results of its certification decisions and instructions to users and local building officials concerning requirements for showing compliance with the building standards for new products, materials, or calculation methods. The commission may charge and collect a reasonable fee from applicants to cover the costs under this ~~paragraph.~~ *subdivision.* Any funds received by the commission for purposes of this subdivision shall be deposited in the Energy Resources Programs Account and, notwithstanding Section 13340 of the Government Code, are continuously appropriated to the commission for the purposes of this subdivision. Any unencumbered portion of funds collected as a fee for an application remaining in the Energy Resources Programs Account after

1 completion of the certification process for that application shall  
2 be returned to the applicant within a reasonable period of time.

3 ~~(3) Include~~

4 *(c) The commission shall include* a prescriptive method of  
5 complying with the standards, including design aids such as a  
6 manual, sample calculations, and model structural designs.

7 ~~(4) Conduct~~

8 *(d) The commission shall conduct* a pilot project of field testing  
9 of actual residential buildings to calibrate and identify potential  
10 needed changes in the modeling assumptions to increase the  
11 accuracy of the public domain computer program specified in  
12 ~~paragraph (1) subdivision (a)~~ and to evaluate the impacts of the  
13 standards, including, but not limited to, the energy savings, cost  
14 effectiveness, and the effects on indoor air quality. The pilot project  
15 shall be conducted pursuant to a contract entered into by the  
16 commission. The commission shall consult with the participants  
17 designated pursuant to Section 9202 of the Public Utilities Code,  
18 as that section read on December 31, 2003, to seek funding and  
19 support for field monitoring in each public utility service territory,  
20 with the University of California to take advantage of its extensive  
21 building monitoring expertise, and with the California Building  
22 Industry Association to coordinate the involvement of builders  
23 and developers throughout the state. The pilot project shall include  
24 periodic public workshops to develop plans and review progress.  
25 The commission shall prepare and submit a report to the Legislature  
26 on progress and initial findings not later than December 31, 1988,  
27 and a final report on the results of the pilot project on residential  
28 buildings not later than June 30, 1990. The report shall include  
29 recommendations regarding the need and feasibility of conducting  
30 further monitoring of actual residential and nonresidential  
31 buildings. The report shall also identify any revisions to the public  
32 domain computer program and energy conservation standards if  
33 the pilot project determines that revisions are appropriate.

34 ~~(5) Ensure that the public domain computer program developed~~  
35 ~~pursuant to paragraph (1) and compliance options required pursuant~~  
36 ~~to paragraph (2) produce an estimate of energy consumption for~~  
37 ~~residential and nonresidential buildings that has an accuracy within~~  
38 ~~5 percent of actual energy consumption for residential and~~  
39 ~~nonresidential buildings.~~

40 ~~(6) Certify,~~

1     ~~(e)~~ *The commission shall certify*, not later than 180 days after  
2 approval of the standards by the State Building Standards  
3 Commission, an energy conservation manual for use by designers,  
4 builders, and contractors of residential and nonresidential buildings.  
5 The manual shall be furnished upon request at a price sufficient  
6 to cover the costs of production and shall be distributed at no cost  
7 to all affected local agencies. The manual shall contain, but not be  
8 limited to, the following:

9     ~~(A)~~

10    ~~(1)~~ The standards for energy conservation established by the  
11 commission.

12    ~~(B)~~

13    ~~(2)~~ Forms, charts, tables, and other data to assist designers and  
14 builders in meeting the standards.

15    ~~(C)~~

16    ~~(3)~~ Design suggestions for meeting or exceeding the standards.

17    ~~(D)~~

18    ~~(4)~~ Any other information which the commission finds will  
19 assist persons in conforming to the standards.

20    ~~(E)~~

21    ~~(5)~~ Instructions for use of the computer program for calculating  
22 energy consumption in residential and nonresidential buildings.

23    ~~(F)~~

24    ~~(6)~~ The prescriptive method for use as an alternative to the  
25 computer program.

26    ~~(f)~~ *The commission shall approve and make publicly available,*  
27 *not less than six months prior to the effective date of adopted or*  
28 *updated standards, the public domain computer program developed*  
29 *pursuant to subdivision (a). Before approving the public domain*  
30 *computer program, the commission shall do both of the following:*

31    ~~(1)~~ *Perform preliminary tests of the public domain computer*  
32 *program using common examples of residential and nonresidential*  
33 *buildings and building systems to ensure the usability of the public*  
34 *domain computer program by architects, builders, contractors,*  
35 *and local code enforcement personnel.*

36    ~~(2)~~ *Make the results of the preliminary tests publicly available.*

37    ~~(g)~~ *For existing single-family residential dwellings and*  
38 *multifamily residential dwellings with up to four units, the*  
39 *commission shall do both of the following:*

1     (1) *Ensure energy assessment tools used by the commission are*  
2     *routinely adjusted to improve modeling accuracy.*

3     (2) *Ensure that consumers receive a notice with the output of*  
4     *the energy assessment tools explaining the assumptions used in*  
5     *the energy assessment tools and how they may differ from actual*  
6     *usage patterns.*

7     ~~(7) Establish~~

8     (h) *The commission shall establish a continuing program of*  
9     *technical assistance to local building departments in the*  
10    *enforcement of subdivisions (a) and (b) of Section 25402 and this*  
11    *section. The program shall include the training of local officials*  
12    *in building technology and enforcement procedures related to*  
13    *energy conservation, and the development of complementary*  
14    *training programs conducted by local governments, educational*  
15    *institutions, and other public or private entities. The technical*  
16    *assistance program shall include the preparation and publication*  
17    *of forms and procedures for local building departments in*  
18    *performing the review of building plans and specifications. The*  
19    *commission shall provide, on a contract basis, a review of building*  
20    *plans and specifications submitted by a local building department,*  
21    *and shall adopt a schedule of fees sufficient to repay the cost of*  
22    *those services.*

23    ~~(b)~~

24    (i) *Subdivisions (a) and (b) of Section 25402 and this section,*  
25    *and the rules and regulations of the commission adopted pursuant*  
26    *to those provisions, shall be enforced by the building department*  
27    *of every city, county, or city and county.*

28    (1) *A building permit for a residential or nonresidential building*  
29    *shall not be issued by a local building department, unless a review*  
30    *by the building department of the plans for the proposed residential*  
31    *or nonresidential building contains detailed energy system*  
32    *specifications and confirms that the building satisfies the minimum*  
33    *standards established pursuant to subdivision (a) or (b) of Section*  
34    *25402 and this section applicable to the building.*

35    (2) *Where there is no local building department, the commission*  
36    *shall enforce subdivisions (a) and (b) of Section 25402 and this*  
37    *section.*

38    (3) *If a local building department fails to enforce subdivisions*  
39    *(a) and (b) of Section 25402 and this section or any other provision*  
40    *of this chapter or standard adopted pursuant thereto, the*

1 commission may provide enforcement after furnishing 10 days'  
2 written notice to the local building department.

3 (4) A city, county, or city and county may, by ordinance or  
4 resolution, prescribe a schedule of fees sufficient to pay the costs  
5 incurred in the enforcement of subdivisions (a) and (b) of Section  
6 25402 and this section. The commission may establish a schedule  
7 of fees sufficient to pay the costs incurred by that enforcement.

8 (5) The construction of a state building shall not commence  
9 until the Department of General Services or the state agency that  
10 otherwise has jurisdiction over the property reviews the plans for  
11 the proposed building and certifies that the plans satisfy the  
12 minimum standards established pursuant to Chapter 2.8  
13 (commencing with Section 15814.30) of Part 10b of Division 3 of  
14 Title 2 of the Government Code, subdivision (a) or (b) of Section  
15 25402, and this section that are applicable to the building.

16 (e)

17 (j) Subdivisions (a) and (b) of Section 25402 and this section  
18 shall apply only to new residential and nonresidential buildings  
19 on which actual site preparation and construction have not  
20 commenced prior to the effective date of rules and regulations  
21 adopted pursuant to those sections that are applicable to those  
22 buildings. Those sections shall not prohibit either of the following:

23 (1) The enforcement of state or local energy conservation or  
24 energy insulation standards, adopted prior to the effective date of  
25 rules and regulations adopted pursuant to subdivisions (a) and (b)  
26 of Section 25402 and this section with regard to residential and  
27 nonresidential buildings on which actual site preparation and  
28 construction have commenced prior to that date.

29 (2) The enforcement of city or county energy conservation or  
30 energy insulation standards, whenever adopted, with regard to  
31 residential and nonresidential buildings on which actual site  
32 preparation and construction have not commenced prior to the  
33 effective date of rules and regulations adopted pursuant to  
34 subdivisions (a) and (b) of Section 25402 and this section, if the  
35 city or county files the basis of its determination that the standards  
36 are cost effective with the commission and the commission finds  
37 that the standards will require the diminution of energy  
38 consumption levels permitted by the rules and regulations adopted  
39 pursuant to those sections. If, after two or more years after the  
40 filing with the commission of the determination that those standards

1 are cost effective, there has been a substantial change in the factual  
2 circumstances affecting the determination, upon application by  
3 any interested party, the city or county shall update and file a new  
4 basis of its determination that the standards are cost effective. The  
5 determination that the standards are cost effective shall be adopted  
6 by the governing body of the city or county at a public meeting.  
7 If, at the meeting on the matter, the governing body determines  
8 that the standards are no longer cost effective, the standards shall,  
9 as of that date, be unenforceable and no building permit or other  
10 entitlement shall be denied based on the noncompliance with the  
11 standards.

12 ~~(d)~~

13 (k) The commission may exempt from the requirements of this  
14 section and of any regulations adopted pursuant to this section any  
15 proposed building for which compliance would be impossible  
16 without substantial delays and increases in cost of construction, if  
17 the commission finds that substantial funds have been expended  
18 in good faith on planning, designing, architecture, or engineering  
19 prior to the date of adoption of the regulations.

20 ~~(e)~~

21 (l) If a dispute arises between an applicant for a building permit,  
22 or the state pursuant to paragraph (5) of subdivision ~~(b)~~, (i), and  
23 the building department regarding interpretation of Section 25402  
24 or the regulations adopted pursuant thereto, either party may submit  
25 the dispute to the commission for resolution. The commission's  
26 determination of the matter shall be binding on the parties.

27 ~~(f)~~

28 (m) Nothing in Section 25130, 25131, or 25402, or in this section  
29 prevents enforcement of any regulation adopted pursuant to this  
30 chapter, or Chapter 11.5 (commencing with Section 19878) of Part  
31 3 of Division 13 of the Health and Safety Code as they existed  
32 prior to September 16, 1977.

O